

DOCKET NO.: MBI-1064

LITIGATED REISSUE

**REISSUE APPLICATION**  
**COMBINED DECLARATION AND POWER OF ATTORNEY BY LEGAL**  
**REPRESENTATIVE OF DECEASED INVENTOR UNDER 35 USC §117 AND 37 CFR 1.42**

*I, Grace C. Petterson, M.D., hereby declare that:*

- (1) My residence, post office address and citizenship are as stated below next to my name;
- (2)(a) I am the legal representative of Mr. Tor H. Petterson (hereinafter "Mr. Petterson"), who is now deceased. Mr. Petterson was an inventor in letters patent number 6,038,784, granted on March 21, 2000 (hereinafter "the patent" or "the original patent").

(b) I verily believe that Mr. Petterson was an original, first and joint inventor of the subject matter that is claimed in the original patent (hereinafter "the patent" or "the original patent") (with his co-inventor being Mr. Steven B. Dunn, having an address of 2069 Coldwater Canyon Beverly Hills, CA 90210) and in the foregoing specification and for which invention I solicit a reissue patent;

**ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR**

- (3) I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims and the Amendment that is being filed on even date herewith;
- (4) I acknowledge the duty to disclose all information known to be material to the patentability of this application in accordance with 37 C.F.R. §1.56;

( x ) In compliance with this duty attached herewith is an Information Disclosure Statement in accordance with 37 C.F.R. §1.97.

**STATEMENT OF INOPERATIVENESS OR INVALIDITY OF  
ORIGINAL PATENT UNDER 37 C.F.R. §1.175**

- (5) I hereby state that I believe the original patent to be partly inoperative because we claimed less than we were entitled to claim.
- (6) The reasons I believe the original patent to be partly inoperative are as follows:

(a) The original claims do not recite in combination an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom portion that is adapted to be supported by an underlying surface such as a countertop and an upper portion, a plurality of pegs

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extending outwardly from the upper portion, each of the pegs being sized and arranged so as to be able to support a baby bottle, mounting structure for mounting the pegs to the tray so that the pegs are movable while mounted to the tray between a first storage position wherein the entire peg is positioned substantially adjacent to the upper portion for storage and packaging of the apparatus and a second operative position wherein the peg is positioned so as to extend outwardly from the upper portion so as to enable the peg to support an article, so that the apparatus can conveniently be folded for packaging and storing purposes, and frictional structure connected to the pegs for frictionally engaging the upper portion of the tray when the pegs are moved between the two positions. I consider this to be an important aspect of the invention.

(b) The original claims do not recite in combination an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom that is adapted to be supported by an underlying surface such as a countertop and then upper face, with the upper face being oriented with respect to the bottom so that one end of the upper face is lower than an opposite end so that water will run toward the one end during use, and a plurality of pegs extending outwardly from the upper face, each of the pegs being sized and arranged so as to be able to support an article, the pegs being positioned away from the edges of the upper face so that any water falling off an article that is supported by any of the pegs will fall within the tray and further wherein each of the pegs is permanently mounted to the tray in such a manner as to be movable between a first storage position, where the entire peg is positioned adjacent to the upper face for storage and packaging of the apparatus, and a second, operative position, wherein the peg is positioned so as to extend outwardly from the upper surface, so as to enable the peg to support an article, so that the apparatus can conveniently be folded for packaging and storing purposes. I consider this to be an important aspect of the invention.

(c) The original claims further do not recite in combination a method of drying a baby bottle ring including steps of placing a bottle rack on a substantially horizontal surface; simultaneously moving a plurality of ring support members that are attached to the bottle rack from a first storage position to a second operative position; and placing at least one baby bottle ring on to one of the ring support members for drying, wherein the step of placing the baby bottle ring is performed so that the baby bottle ring is positioned above an upper surface of the bottle rack, whereby the baby bottle ring will not be exposed to any water that may have collected on the upper surface. I consider this to be an important aspect of the invention.

(d) The original claims further fail to recite in combination a method of drying a baby bottle including steps of placing a bottle rack on a substantially horizontal surface; simultaneously moving a plurality of pegs that are attached to the bottle rack from a first storage position to a second operative position; and placing at least one baby bottle on to one of the pegs for drying, this step being performed so that the baby bottle is positioned above and upper surface of the bottle rack, so that the baby bottle will not be exposed to any water that may have collected on the upper surface. I consider this to be an important aspect of the invention.

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(e) The ring support member that is indicated by reference numeral 32 in the drawings of the original patent is variously referred to in the originally filed disclosure as both a "nipple support member" and a "ring support member." In addition, claims 11 and 12 of the original patent refer to this element as a "ring support member," while claims 13-16, which directly or indirectly depend from claim 11, use the term "nipple support member." This introduces confusion into the original patent that, while it is not felt to be severe enough to render any of the claims invalid, might increase the judicial and legal expenses of enforcing the original patent.

(f) The original patent did not claim the concept of the cut out area on a side of the apparatus as it was set forth in original claim 18 in combination with the limitation that the cut out area is positioned beneath one end of the upper face.

(7) Accordingly, this reissue application seeks to amend original claims 13, 14, 15, and 16 to change the existing reference to nipple support members to the proper descriptive term for the structure that was used in claims 11 and 12, which is ring support members. Applicant believes that this does not constitute a substantial change in the language of the amended claims that would create any intervening rights for a potential infringer or an existing infringer. These amendments have been proposed sole and exclusively to address the issue of potential confusion that is discussed above in Section 6(e). The specification has also been amended to this effect. No new matter has been added.

(8) Additionally, new claims 21-49 are proposed that are intended to claim the above-discussed aspects of the invention in their appropriate scope. Specifically:

(a) New dependent claim 21 further limits original claim 18 by specifying that the cut out area is positioned in a one end of the upper face of the apparatus.

(b) New independent claim 22 is provided to protect the concept described in Section 6(a) that was not claimed in the original patent. It recites an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom portion that is adapted to be supported by an underlying surface such as a countertop and an upper portion; a plurality of pegs extending outwardly from the upper portion, each of the pegs being sized and arranged so as to be able to support a baby bottle; mounting means for mounting the pegs to the tray so that the pegs are movable while mounted to the tray between a first storage position, wherein the entire peg is positioned substantially adjacent to the upper portion for storage and packaging of the apparatus, and a second operative position, wherein the peg is positioned so as to extend outwardly from the upper portion, so as to enable the peg to support an article, wherein the apparatus can conveniently be folded for packaging and storage purposes; and frictional means connected to the pegs for frictionally engaging the upper portion of the tray when the pegs are moved between the first storage position and the second operative position.

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(c) New dependent claims 23-31 are provided to protect the inventive concept set forth in new claim 22 in conjunction with additional structure which, in combination with the subject matter of claim 22, is felt to independently constitute protectable subject matter that was not protected by the original patent.

(d) New independent claim 32 is provided to protect the concept that is described in section 6(b) that was not claimed in the original patent. It recites an apparatus for supporting baby bottles and related accessories for drying including a tray having a bottom that is adapted to be supported by an underlying surface such as a countertop and an upper face, with the upper face being oriented with respect to the bottom so that one end of the upper face is lower than an opposite end so that water will run toward the one end during use, and a plurality of pegs extending outwardly from the upper face, each of the pegs being sized and arranged so as to be able to support an article, the pegs being positioned away from the edges of the upper face so that any water falling off an article that is supported by any of the pegs will fall within the tray and further wherein each of the pegs is permanently mounted to the tray in such a manner as to be movable between a first storage position, where the entire pages positioned adjacent to the upper face for storage and packaging of the apparatus, and a second, operative position, wherein the peg is positioned so as to extend outwardly from the upper surface, so as to enable the peg to support an article, so that the apparatus can conveniently be folded for packaging and storing purposes.

(e) New dependent claims 33 and 34 are provided to protect the inventive concept set forth in new claim 32 in conjunction with additional structure which, in combination with the subject matter of claim 32, is felt to independently constitute protectable subject matter that was not protected by the original patent.

(f) New independent claim 35 is provided to protect the concept that is described in section 6(c) that was not claimed in the original patent. It recites a method of drying a baby bottle ring including steps of placing a bottle rack on a substantially horizontal surface; simultaneously moving a plurality of ring support members that are attached to the bottle rack from a first storage position to a second operative position; and placing at least one baby bottle ring on to one of the ring support members for drying, wherein the step of placing the baby bottle ring is performed so that the baby bottle ring is positioned above an upper surface of the bottle rack, whereby the baby bottle ring will not be exposed to any water that may have collected on the upper surface.

(g) New dependent claims 36-45 are provided to protect the inventive concept set forth in new claim 35 in conjunction with additional method steps which, in combination with the subject matter of claim 35, is felt to independently constitute protectable subject matter that was not protected by the original patent.

(h) New independent claim 45 is provided to protect the concept that is described in section 6(d) that was not claimed in the original patent. It recites a method of drying a baby bottle including

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steps of placing a bottle rack on a substantially horizontal surface; simultaneously moving a plurality of pegs that are attached to the bottle rack from a first storage position to a second operative position; and placing at least one baby bottle on to one of the pegs for drying, this step being performed so that the baby bottle is positioned above and upper surface of the bottle rack, so that the baby bottle will not be exposed to any water that may have collected on the upper surface.

(i) New dependent claims 47-49 are provided to protect the inventive concept set forth in new claim 46 in conjunction with additional method steps which, in combination with the subject matter of claim 46, is felt to independently constitute protectable subject matter that was not protected by the original patent.

(9) All errors which are being corrected in the present reissue application up to the time of filing of this declaration arose without any deceptive intention on the part of the applicant.

#### **POWER OF ATTORNEY**

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: **John L. Knoble**, Registration No. 32,387 of the firm of **KNOBLE & YOSHIDA, LLC**.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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**Date:**

7-10-02